

REMARKS

The Examiner has rejected Claims 11 and 16-20 under 35 U.S.C. 101 as being directed toward non-statutory subject matter. Applicant respectfully asserts that such rejection has been avoided by virtue of the clarification made hereinabove to independent Claim 11.

The Examiner has rejected Claims 1-29 under 35 U.S.C. 102(e) as being anticipated by Kryskow (U.S. Patent Publication No. 2003/0053455). Applicant respectfully disagrees with such rejection.

With respect to independent Claims 1, 11, and 21, the Examiner has relied on paragraphs [0068], [0070] and Figure 10 from Kryskow to make a prior art showing of applicant's claimed "querying a database for network traffic information based on the identified templates" (see the same or similar, but not necessarily identical language in the independent claims).

Applicant respectfully asserts that paragraph [0068] from Kryskow, as relied on by the Examiner, only generally discloses "monitoring and analyzing network components." In addition, paragraph [0070] from Kryskow, as also relied on by the Examiner, only discloses "Mediation Applications that...extract key customer, service, business and network resource configuration information" where such "data is usually located in the...repository/databases" (emphasis added). Further, Figure 10 from Kryskow merely shows a traffic database (item 1.2.6).

Clearly, the excerpts from Kryskow relied on by the Examiner only disclose in one embodiment extracting configuration information associated with customer, service, business and network resources, and in another separate embodiment show a traffic database. However, simply nowhere in such excerpts is there any teaching or even suggestion of templates, as claimed. Thus, such excerpts simply do not meet applicant's

claimed “querying a database for network traffic information based on the identified templates” (emphasis added), as claimed.

Still with respect to the independent Claims 1, 11, and 21-22, the Examiner has relied on paragraph [0123] from Kryskow to make a prior art showing of applicant’s claimed “populating the templates with the network traffic information” (see this or similar, but not necessarily identical language in the independent claims). Specifically, the Examiner has emphasized Kryskow’s disclosure of “[a]ccumulat[ing] monitored...business bandwidth data and translat[ing] that data into specific analyzed metrics” from such excerpt.

Applicant respectfully asserts that simply accumulating monitored business bandwidth data and translating the data, as in Kryskow, fails to even mention templates, as applicant specifically claims, and thus does not meet applicant’s claimed “populating the templates with the network traffic information” (emphasis added), as claimed. In fact, applicant notes that Kryskow merely discloses that “[f]irst, you start with application templates and modify them based on the observed size of the customer’s site (Number of clients/servers),” and then “the network is observed for some period of time so as to develop ‘tuning’ parameters to ‘adjust’ the embedded templates to match the specific customer’s site application usage/models” (see paragraph [0114]-emphasis added). Clearly, adjusting templates with tuning parameters, as in Kryskow, does not suggest that “the templates [are populated] with the network traffic information” (emphasis added), as applicant specifically claims.

Further, with respect to independent Claims 1, 11 and 21-22, the Examiner has relied on paragraph [0159] from Kryskow to make a prior art showing of applicant’s claimed “reporting the network traffic information over a network utilizing the populated templates” (see this or similar, but not necessarily identical language in the independent claims). Specifically, the Examiner has emphasized Kryskow’s disclosure of “[u]tiliz[ing] real time data collected from modules” from such excerpt.

Applicant respectfully asserts that, when read in context, the excerpt from Kryskow relied on by the Examiner merely discloses “[u]tiliz[ing] real time data collected from...modules and perform[ing] ‘change partitioning’ algorithms to determine if repartitioning end-to-end metrics are required.” Clearly, utilizing real time data for performing algorithms, as in Kryskow, fails to teach or suggest any sort of reporting, as claimed, let alone “reporting the network traffic information over a network utilizing the populated templates” (emphasis added), as applicant specifically claims.

In addition, with respect to independent Claims 1, 11, and 21-22, the Examiner has relied on Figure 4 and paragraph [0065] from Kryskow to make a prior art showing of applicant’s claimed technique “wherein the reporting includes displaying a graphical user interface reflecting the populated templates” (see this or similar, but not necessarily identical language in the independent claims).

Applicant respectfully asserts that Figure 4 from Kryskow only generally shows a display. In addition, paragraph [0065] from Kryskow only relates to “bandwidth monitoring devices” (emphasis added), and a “master control module [that] can communicate with one or more bandwidth interconnecting modules.” Applicant notes, however, that such excerpt does not even suggest any sort of “reporting [that] includes displaying a graphical user interface,” particularly where the “graphical user interface reflect[s] the populated templates” (emphasis added), as applicant specifically claims.

Moreover, with respect to each of the independent claims, the Examiner has relied on paragraphs [0009-0014], [0019], [0020], and [0109-0114] in Kryskow to make a prior art showing of applicant’s claimed technique “wherein the templates are generated based on a plurality of user-configured parameters including network portions to be reported, a format of the reporting, a time or period, where the network traffic information comes from, what type of network traffic information is used, and to what location the network traffic information is written” (see this or similar, but not necessarily identical language in the independent claims). Specifically, the Examiner has emphasized that such excerpts

from Kryskow disclose “defining the bandwidth profile, including end-to-end and customer-defined end point and translating them to modeling algorithms.”

Applicant respectfully disagrees. First, the only disclosure in paragraphs [0009-0014], [0019] and [0020] of Kryskow with respect to “templates” simply includes “predefined service offering templates.” Clearly, service offering templates, as in Kryskow, fail to even suggest that “the templates are generated based on a plurality of user-configured parameters including network portions to be reported, a format of the reporting, a time or period, where the network traffic information comes from, what type of network traffic information is used, and to what location the network traffic information is written,” as applicant claims.

Second, paragraphs [0109-0114] in Kryskow disclose “translating the learned business bandwidth for each application into a total end-to-end business bandwidth profile, for any customer-defined end,” and that the “algorithm for performing the baselining adds up the individual source and sink characterizations for any end point and translates them through knowledge-based modeling algorithms...into a set of business bandwidth baselines (metrics).” Clearly, Kryskow teaches translating characterizations for an end point into a set of business bandwidth baselines utilizing knowledge-based modeling algorithms, and not “translating them to modeling algorithms” (emphasis added), as noted by the Examiner.

Furthermore, applicant respectfully points out that the only disclosure of “templates” in such excerpts simply includes “start[ing] with application templates and modify[ing] them based on the observed size of the customer’s site (Number of clients/servers),” and “observ[ing] [the network] for some period of time so as to develop ‘tuning’ parameters to ‘adjust’ the embedded templates to match the specific customer’s site application usage/models.” Clearly, such excerpts only disclose modifying templates based on a number of clients and servers associated with a customer, which does not even suggest that “the templates are generated based on a plurality of user-configured parameters including network portions to be reported, a format of the reporting, a time or

period, where the network traffic information comes from, what type of network traffic information is used, and to what location the network traffic information is written" (emphasis added), as claimed.

In addition, with respect to independent Claims 22 and 23, the Examiner has relied on paragraphs [0115], [0121], and [0124-0136] from Kryskow to make a prior art showing of applicant's claimed "determining whether a network analysis reporting system is operating in a report mode or edit mode" (Claim 22) and "determining whether the interface is operating in a report mode or edit mode" (Claim 23). Specifically, the Examiner has argued that such excerpts from Kryskow disclose "user making adjustments."

Applicant respectfully disagrees and respectfully asserts that a user simply making adjustments, as alleged to be taught in Kryskow by the Examiner, fails to even suggest any sort of "a report mode or edit mode," let alone specifically "determining whether a network analysis reporting system is operating in a report mode or edit mode" (Claim 22) or "determining whether the interface is operating in a report mode or edit mode" (Claim 23), as applicant claims. Furthermore, as even noted by the Examiner, the excerpts relied on by the Examiner do not even mention any sort of report mode, as applicant claims, and thus do not meet applicant's claimed "determining whether a network analysis reporting system is operating in a report mode or edit mode" (Claim 22) and "determining whether the interface is operating in a report mode or edit mode" (Claim 23), as claimed.

With respect to Claim 23, the Examiner has relied on paragraph [0121] in Kryskow to make a prior art showing of applicant's claimed "if the interface is operating in the edit mode... validating the parameter file." Applicant respectfully asserts that such excerpt merely teaches either using "defaults for each application... or allow[ing] the user an opportunity to preselect and specify specific configuration parameters." Clearly, using either default parameters or user selected parameters, as in Kryskow, fails disclose any

sort of validation, and particularly not “validating the parameter file,” as applicant specifically claims.

Still with respect to Claim 23, the Examiner has again relied on paragraphs [0125-0136] in Kryskow to make a prior art showing of applicant’s claimed “identifying templates in the parameter file.” Applicant respectfully asserts that such excerpts only disclose “mak[ing] adjustment recommendations for specific changes to...metrics” (paragraph [0125]),” and log[ging] any and all changes to those templates” (paragraph [0132]). Clearly, simply making recommendations for changes to metrics and logging changes to templates, as in Kryskow, fails to specifically teach “identifying templates in the parameter file” (emphasis added), as applicant claims.

Further, with respect to Claim 23, the Examiner has relied on paragraph [0136] in Kryskow to make a prior art showing of applicant’s claimed “retrieving templates of a first type from a first module...[and] retrieving templates of a second type from a second module.” Applicant respectfully asserts that such excerpt only generally discloses “modules pertaining to autobaselining.” Clearly, only generally disclosing modules, as in such excerpt from Kryskow, fails even suggest retrieving templates, as applicant claims, and especially not “retrieving templates of a first type from a first module...[and] retrieving templates of a second type from a second module” (emphasis added), as claimed.

In addition, with respect to Claim 23, the Examiner has relied on Figure 4 and paragraph [0065] from Kryskow to make a prior art showing of applicant’s claimed technique “displaying the populated templates” (see this or similar, but not necessarily identical language in the independent claims).

Applicant respectfully asserts that Figure 4 from Kryskow only generally shows a display. In addition, paragraph [0065] from Kryskow only relates to “bandwidth monitoring devices” (emphasis added), and a “master control module [that] can communicate with one or more bandwidth interconnecting modules.” Applicant notes,

however, that such excerpt does not even suggest any sort of “populated templates,” and particularly not “displaying the populated templates” (emphasis added), as applicant specifically claims.

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criterion has simply not been met by the Kryskow reference, as noted above. Thus, a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features, is respectfully requested.

Applicant further notes that the prior art is also deficient with respect to the dependent claims. For example, with respect to Claim 26, the Examiner has relied on Figure 4 and paragraphs [0079-0080] from Kryskow to make a prior art showing of applicant’s claimed technique “wherein the reporting includes a graph displaying a list of busiest servers for a predefined period of time.”

Applicant respectfully asserts that such excerpts merely disclose “tak[ing]... classes of configuration information and transform[ing] them into specific monitoring and analysis templates.” Further, such excerpts teach “distribut[ing] these templates... [to] collect then control the...real world statistics...[and] compare the real-time data to specific data ‘points’ located in the fundamental...‘templates’.” Thus, such excerpts from Kryskow only relate to collecting and comparing data, and not to any sort of reporting, as claimed, and especially not a technique “wherein the reporting includes a graph displaying a list of busiest servers for a predefined period of time” (emphasis added), as applicant specifically claims.

In addition, with respect to dependent Claim 28, the Examiner has relied on paragraphs [0064], and [0070] from Kryskow to make a prior art showing of applicant's claimed technique "wherein the plurality of monitoring agents write the network traffic information to files which are utilized to populate the database."

Applicant respectfully asserts that such excerpts merely teach that a "bandwidth monitoring device... [is] positioned between a LAN and a plurality of network enabled devices 46" (paragraph [0064]), and that "key customer, service, business and network resource configuration information... is usually located in the... repository/databases" (paragraph [0070]). In fact, applicant notes that in paragraph [0070], Kryskow discloses that the "key customer, service, business and network resource configuration information [is extracted from the repository/databases and] plac[ed] into configurable files." Thus, Kryskow clearly does not even suggest that "the plurality of monitoring agents write the network traffic information to files which are utilized to populate the database" (emphasis added), as claimed.

Again, since foregoing anticipation criterion has simply not been met by the above reference, as noted above, a notice of allowance or a proper prior art showing of all of the claim limitations, in the context of the remaining elements, is respectfully requested.

Still yet, applicant brings to the Examiner's attention the subject matter of new Claim 30 below, which is added for full consideration:

"wherein the templates specify a manner in which the network traffic information is extracted from the database and a manner in which the network traffic information is reported" (see Claim 30).

Again, a notice of allowance or a proper prior art showing of all of the claim limitations, in the context of the remaining elements, is respectfully requested. Thus, all

of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAIIP067).

Respectfully submitted,
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